



MARYLAND DEPARTMENT OF JUVENILE SERVICES

POLICY & PROCEDURE

SUBJECT: Criminal Background Investigations Policy
NUMBER: HR-01-07 (Human Resources)
APPLICABLE TO: DJS Employees and Volunteers
EFFECTIVE DATE: September 20, 2007

Approved: "/s/signature on original copy"
Donald W. DeVore, Secretary

1. **POLICY.** It is the policy of the Department of Juvenile Services (DJS) to ensure that employees and volunteers who interact with juveniles and/or represent the Department in court proceedings do not possess a criminal background which could pose a danger to youth or negatively impact upon the credibility of the Department.
2. **AUTHORITY.**
 - a. Article 83C § 2-132, Maryland Annotated Code.
 - b. Family Law Article § 5-560 et. seq., Maryland Annotated Code.
 - c. COMAR 12.10.01 et. seq.
3. **DEFINITIONS.**
 - a. *Applicant* means an individual who is under consideration for full or part-time employment with, or to perform services as a volunteer, for DJS.
 - b. *Conditional Employees* means individuals employed or accepted as a volunteer prior to the Department's receipt of the Federal Bureau of Investigation (FBI) or Maryland's Criminal Justice Information System - Central Repository (CJIS-CR) report of findings.
 - c. *Conviction* means an individual has been determined in a court of law to be guilty of an offense.
 - d. *Criminal Background Investigation* means gathering information by submitting fingerprint cards for use in searching FBI records and the information on file in the CJIS-CR to determine if an individual has a criminal record.
 - e. *Direct Care Employee* means an individual whose employment responsibility is the investigation, custody or control of juveniles and youthful offenders who are detained, committed, awaiting placement, adjudicated delinquent or otherwise under the supervision of DJS.
 - f. *Employee* means an individual who is employed full or part time by DJS on a permanent or contractual basis, including provisionary and probationary employees.
 - g. *Mandated Position* means a direct care position subject to the Maryland Correctional Training Commission (MCTC) regulations.
 - h. *Pending Charges* means an individual has not yet been tried in court for an offense with which the individual has been charged.

- i. *Volunteer* means an individual performing services in DJS and receiving no monetary compensation from the Department.

4. **PROCEDURES.**

a. General Procedures.

- (1) During the initial interview of a direct care applicant, the Office of Investigations and Audits (OIA) investigator will provide the applicant with a record check card and a letter explaining the criminal background report process.
- (2) When a non-direct care applicant is under consideration, the Office of Human Resources (OHR) or Program Manager will provide a packet to the applicant prior to the initial interview with a record check card and a letter explaining the criminal background report process.
- (3) The OHR shall receive CJIS–CR and FBI reports of findings for each employment applicant and employee. The Office of Community Affairs (OCA) shall receive FBI or CJIS-CR reports of findings for each volunteer applicant and volunteer.
- (4) OHR and OCA shall forward all reports of findings to OIA to interpret the report of findings.
- (5) OIA shall interpret the report of findings and advise OHR of the individual's suitability for employment and OCA of the individual's suitability for volunteer positions.
- (6) OHR shall send criminal records for mandated employees to Maryland Correctional Training Commission (MCTC) with the Application for Certification. If MCTC will not issue certification to the individual, the employee shall be terminated from the mandated position.

b. Conditional employees.

- (1) If the Department has not received the FBI or CJIS-CR reports of findings for an individual to be employed or accepted as a volunteer, the individual may be employed or accepted as a volunteer only with the approval of the Secretary or the Secretary's designee; and
- (2) The individual shall sign a statement acknowledging the individual's understanding and agreement that if the FBI or CJIS-CR reports of findings are unacceptable the individual's employment or volunteer status with the Department shall be terminated immediately.

c. Disqualifying Criminal Convictions.

- (1) The applicant, employee or volunteer shall be disqualified if the individual applicant has:
 - (i) A conviction for:
 - (a) Aggravated assault,
 - (b) Murder or manslaughter,
 - (c) Robbery,
 - (d) Arson,
 - (e) Kidnapping,
 - (f) A handgun or weapon-related violation,
 - (g) Rape,
 - (h) A first, second, or third degree sexual offense,
 - (i) Distribution of controlled dangerous substances,
 - (j) Child Abuse; or
 - (k) Two or more felonies not arising from the same incident.
 - (ii) A conviction for an offense that resulted in incarceration when less than ten years have elapsed since the individual was released from incarceration or terminated from parole or probation, whichever last occurred;
 - (iii) A misdemeanor conviction that resulted in incarceration when less than five years have elapsed since the individual was released from incarceration or terminated from parole or probation, whichever last occurred; or
 - (iv) Three or more misdemeanor convictions, except convictions for minor traffic violations, arising out of separate occurrences if at least one misdemeanor was for an offense involving violence or moral turpitude and a term of imprisonment was served for any one offense.
- (2) Convictions for infamous crimes, such as perjury or fraud, which have occurred within the past ten years, may result in the disqualification of applicants or termination of the employee or volunteer.
- (3) A report of a pending charge for an offense may be cause for disqualification of applicants or termination of the employee or volunteer.
- (4) DJS reserves the right to disqualify applicants or terminate the employment of an employee or volunteer with a criminal record not covered by this Policy and Procedure.
- (5) If an employee submits false information on the Application for State Employment or Addendum to the Application for State Employment, such falsification may result in the dismissal of the employee. If a volunteer submits false information on the Volunteer/Student Intern application, this falsification may result in the dismissal of the volunteer.

- (6) For all reports which require the exercise of discretion by the Department in employing, retaining or dismissing an applicant, employee or volunteer, the following procedure shall be observed:
- (i) Process for an applicant for employment or volunteer.
 - (a) Upon receipt of the reports by OHR, the reports shall be provided to OIA for review, investigation, and recommendation to approve for hire and volunteer status, or disqualification.
 - (b) OHR shall review OIA's recommendation and may consult with the Office of the Attorney General for clarification pertaining to legal issues regarding employment within the Department.
 - (c) The OHR shall present to the Assistant Secretary the report for an applicant for employment, recommendations of OHR, and OIA regarding employment. The Assistant Secretary will consider the duties and responsibilities assigned to the position, as well as any mitigating circumstances pertaining to the individual's selection or disqualification for employment.
 - (d) The Assistant Secretary shall determine whether the individual shall be selected and offered employment, or the individual shall be considered disqualified for employment.
 - (e) The Assistant Secretary shall forward the determination regarding the individual's acceptability for employment or disqualification to the Deputy Secretary. The Deputy Secretary shall acknowledge receipt, and agreement or disagreement with the Assistant Secretary's determination pertaining to the employment of the individual.
 - (f) OCA shall review OIA's recommendation and may consult with the Office of the Attorney General for clarification pertaining to legal issues regarding volunteering within the Department.
 - (g) The OCA shall present to the Assistant Secretary the report for an applicant to volunteer, recommendations of OCA, and OIA regarding volunteering. The Assistant Secretary will consider the duties and responsibilities assigned to the position, as well as any mitigating circumstances pertaining to the individual's selection or disqualification for volunteering.
 - (h) The Assistant Secretary shall determine whether the individual shall be selected and offered an opportunity to volunteer, or the individual shall be considered disqualified to be a volunteer.
 - (i) The Assistant Secretary shall forward the determination regarding the individual's acceptability to be a volunteer or disqualification to volunteer to the Deputy Secretary. The Deputy Secretary shall acknowledge receipt, and agreement

or disagreement with the Assistant Secretary's determination pertaining to volunteering with the Department.

- (ii) Process for Conditional Employee.
 - (a) Upon receipt of the reports by OHR the reports shall be provided to OIA for review, investigation, and recommendation to approve the individual for retention or employment termination.
 - (b) OHR shall review OIA's recommendation and may consult with the Office of the Attorney General for clarification pertaining to legal issues regarding employment within the Department.
 - (c) Where there are issues regarding suitability for employment, OHR shall present to the Assistant Secretary the report for a current employee, recommendations of OHR, and OIA regarding retention or dismissal. The Assistant Secretary will consider the duties and responsibilities assigned to the position, as well as any mitigating circumstances pertaining to the individual's retention or recommendation for termination of employment.
 - (d) The Assistant Secretary shall determine whether the individual shall be retained, or the individual's employment shall be recommended for termination.
 - (e) The Assistant Secretary shall forward the determination regarding the individual's retention or employment termination to the Deputy Secretary. The Deputy Secretary shall acknowledge receipt, and agreement or disagreement with the Assistant Secretary's determination pertaining to the retention of the individual or recommendation for termination of employment.
- (iii) Process for Conditional Volunteers.
 - (a) Upon receipt of the reports by OHR the reports shall be provided to OIA for review, investigation, and recommendation to approve the individual for retention or termination of volunteer status.
 - (b) OCA shall review OIA's recommendation and may consult with the Office of the Attorney General for clarification pertaining to legal issues regarding volunteering within the Department.
 - (c) OCA shall present to the Assistant Secretary the report for a volunteer, recommendations of OCA and OIA regarding volunteering. The Assistant Secretary will consider the duties and responsibilities assigned to the position, as well as any mitigating circumstances pertaining to the individual's selection or disqualification for volunteering.
 - (d) The Assistant Secretary shall determine whether the individual shall be retained as a volunteer, or the individual

- shall be considered disqualified to be a volunteer.
- (e) The Assistant Secretary shall forward the determination regarding the individual's acceptability to be a volunteer or disqualification to volunteer to the Deputy Secretary. The Deputy Secretary shall acknowledge receipt, and agreement or disagreement with the Assistant Secretary's determination pertaining to retaining the volunteer or terminating the individual's volunteer status with the Department.

- (7) Each employee's report of findings shall be maintained separately from the individual's personnel file in OHR for the duration of employment. Each volunteer's report of findings shall be maintained separately from other volunteer records in OCA for the duration of their volunteer status.

5. DIRECTIVES/POLICIES AFFECTED.

- a. Directives/Policies Rescinded - **03.33 (Criminal Background Investigations)**
- b. Directives Referenced **None.**

6. LOCAL IMPLEMENTATING PROCEDURES REQUIRED. No.

7. FAILURE TO COMPLY.

Failure to comply with a Secretary's Policy and Procedure shall be grounds for disciplinary action up to and including termination of employment.

Appendices – None.



MARYLAND DEPARTMENT OF JUVENILE SERVICES EMPLOYEE STATEMENT OF RECEIPT POLICY AND PROCEDURE

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I have received one copy (electronic or paper) of the Policy and/or Procedure as titled above. I acknowledge that I have read and understand the document, and agree to comply with it.

SIGNATURE

PRINTED NAME

DATE

(THE ORIGINAL COPY MUST BE RETURNED TO YOUR IMMEDIATE SUPERVISOR FOR FILING WITH PERSONNEL, AS APPROPRIATE.)